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COMMISSION ON HUMAN RIGHTS

Forty-eighth session

SUMMARY RECORD OF THE 8th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 31 March 1992, at 3 p.m.

Chairman: Mr. SOLT (Hungary)

later: Mr. NASSERI (Iran)

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The meeting was called to order at 3.05 p.m.

STATEMENT BY HIS EXCELLENCY MR. OMER ARTEH GHALIB, PRIME MINISTER OF THE SOMALI DEMOCRATIC REPUBLIC

1. Mr. GHALIB (Prime Minister of the Somali Democratic Republic), describing the historical background of human rights, reminded the Commission, which, together with all those working to defend human rights, had come to symbolize the conscience of mankind, that the idea of a "declaration on the essential rights of man" had been the result of the experience of the Second World War, at the time of the birth of the United Nations. It was thus the victorious allies which had drawn up the set of principles and precepts designed to establish peace in the family of independent nations, mainly the European nations. However, those same principles had triggered a new confrontation between the European colonizers and the colonized African, Asian and Arab peoples when the latter had come to demand their right to freedom and independence. The period that had followed had been characterized, inter alia, by serious attempts to repress the struggle for liberation, the institutionalization of apartheid in South Africa, the wiping of Palestine from the map and the creation of Israel. Throughout that process, the peoples of Africa, Asia and the Arab world had suffered the most abhorrent human rights abuses, which would have appalled present-day defenders of the human rights cause.

2. Hardly had those peoples achieved their independence than the world had fallen into the trap of a new war - the cold war - between the capitalist West and the socialist East. That new war had had a pathetic aspect because, in its quest for spheres of influence, the West had tolerated massive human rights violations in countries within its camp, while the East had supplied expertise and equipment to the States under its protection, which had been bent on exploiting their own peoples.

3. Today, following the collapse of communism and the end of the cold war, the world had to tackle the task of building a new world order. As in the past, however, it was the victors which made up the rules of the game, not the vanquished or the seemingly marginalized developing countries. Thus far, the results had been quite positive, since Kuwait had been liberated and progress was being made on a peaceful transfer of power in Zambia. However, there were still many obstacles to be overcome, such as the Palestinian cause, the aspirations of the South African majority and the catastrophic situation in the Horn of Africa.

4. Nevertheless, it could not be denied that enormous progress had been achieved over the past 40 years in the field of human rights and fundamental freedoms, even if that progress had been slow and painstaking. The international community now had a set of international instruments guaranteeing fundamental rights and freedoms and providing the means of gauging compliance with the rules defined in those instruments, as well as mechanisms to deal with serious violations. Central to all those endeavours, however, were the universality and indivisibility of human rights and freedoms and the resulting accountability of Governments to the international community as a whole. In fact, world public opinion had now reached a stage where positive interventions were being contemplated in the name of safeguarding

fundamental human rights; that was certainly desirable, but should be done completely impartially. Despite the progress made, flagrant violations were still being committed in a number of countries; that had been the case in Somalia, during the long dictatorship which had come to an end in 1991.

5. For over 21 years, Somalia had been subjected to a brutally oppressive regime and had experienced fear, persecution, detentions without trial, torture, kangaroo courts and summary executions. Not a single right had been recognized and freedom had been severely curtailed. The Commission was well aware of the abuses committed by General Siyad Barre, since they had been on its agenda for the last four sessions. 1991 had been an eventful year in Somalia: Siyad Barre's dictatorship had collapsed in January, following a popular uprising led by opposition groups and armed fronts. Unfortunately, that collapse had been accompanied by a series of outbreaks of violence unleashed by the dictator: thousands of innocent civilians had been killed for no reason, the country's infrastructures had been devastated beyond repair and hundreds of thousands of persons had fled the brutality and vandalism of Siyad Barre's agents.

6. After such a tragedy and in view of the small number of political organizations that existed in the country owing to the permanent ban imposed on them by the previous regime, the Somalis had resorted to traditional mechanisms to bring about national reconciliation and, in July 1991, a conference had been held in Djibouti to lay the foundations for the current interim Government in the framework of a representative political system. In that connection, he very sincerely thanked President Hassan Guled of Djibouti and his Government for their hospitality and for their valuable contributions and also extended special thanks to the countries and regional organizations which had sent observer delegations to the conference for the solidarity they had shown at such a critical time, in particular, the United States, the member countries of the European Economic Community, the countries of the Organization of African Unity (OAU), the Organization of the Islamic Conference and the Arab League, as well as neighbouring countries. He also expressed his gratitude to King Fahd Bin Abdul-Aziz of Saudi Arabia, who had unwaveringly supported the process of national reconciliation in Somalia.

7. The Somali Government had then launched a political programme based on national unity, social justice, respect for human rights and multiparty politics. The establishment of a portfolio for constitutional affairs and human rights at the ministerial level was a clear indication of his Government's commitment to the cause of human rights. However, the foremost priority was still peace and stability, which were a prelude to economic recovery and the implementation of the new political programme, but which were still illusory.

8. In a wider context, the wind of change that had recently swept through the world, and the emergence of a new world order, had given fresh impetus to peoples subjected to repressive regimes: that had resulted either in a process of peaceful transition, as in the case of Zambia, or in a situation marred by violence, as in the case of Somalia. The country's recent experience during the initial, and crucial, transition stage showed that the international community could be of considerable help in normalizing the situation of fledgling Governments by giving them prompt support and solidarity. If that

had been the case in Somalia, the country would have been able to avoid the enormous devastation it had had to endure. History had shown that ousted dictators often left behind destruction, fear, rivalries and frustrations, in addition to large stocks of weapons, a scenario that was often exacerbated by commodity shortages. That was the tragedy Somalia now faced: the problem was by no means one of simple clan warfare. It should be recalled that the Somali army had been one of the strongest in the southern Sahara and that its weapons had fallen into the hands of the nomads, against whom the regime was currently fighting.

9. Since peacemaking efforts in Somalia itself had been without success, the recent statements by the Secretary-General on the role of the United Nations in the peace process in general and on his new order of priorities, as well as his clear stand on the subject of Somalia, had inspired great hope and optimism in the country. His Government was confident that the international community would give its support to the United Nations in exploring all possibilities of achieving peace. The initiatives taken in that regard by the Organization of African Unity and by the Arab League were also greatly appreciated. In that connection, he appealed to the United States and to the European Community to support those initiatives by making use of all their considerable influence, since current interventions on the part of the world community in comparable situations had appeared to facilitate the restoration of peace and order and the settlement of conflicts. The Somali Government supported the recent proposal put forward chiefly by non-governmental organizations, including SOS and Save the Children Fund, that "peace corridors" should be created in Mogadishu to facilitate the passage of relief supplies and that a neutral zone should be established to include the port and the international airport, as well as the main hospitals, banks and radio stations. He hoped that that would help to normalize the situation in his country.

10. A number of institutions and individuals had made concerted efforts to bring an end to the human rights violations committed in Somalia under Siyad Barre's reign of terror. He owed them heartfelt thanks, since it was owing to their interventions that he and seven other condemned men had escaped execution after six years of solitary confinement. That was a tangible example of what could be achieved by the pressure of international public opinion. In particular, he wished to express his gratitude to former pupils of Saint Paul's College, the Secretary-General of the Inter-Parliamentary Union, the Arab Lawyers Union, the Merseyside Heswal Group, Amnesty International, Africa Watch and 35 members of the United States Congress, all of whom had intervened in various ways in support of the victims of Siyad Barre's regime.

11. Before concluding, he paid a tribute to the freedom fighters in southern Africa who had devoted their entire lives to the struggle for freedom and justice and who had stood out with courage and perseverance against the degrading law of apartheid, in particular, Nelson Mandela and Oliver Tambo. He also paid a tribute to the determination of President De Klerk, who had decided to usher in a new era of national coexistence, in which apartheid would have no place. In today's increasingly interdependent world, the maintenance of peace and stability was of paramount importance. Now that the cold war was a thing of the past, the Security Council appeared to be in a better position than ever to break new ground and establish an effective mechanism which would enable the United Nations to play its preventive role and truly to be, in accordance with the Charter, the guardian of world peace.

VIOLATIONS OF HUMAN RIGHTS IN SOUTHERN AFRICA: REPORT OF THE AD HOC WORKING GROUP OF EXPERTS (agenda item 5) (continued) (E/CN.4/1992/8; E/CN.4/1991/10; A/46/401)

THE ADVERSE CONSEQUENCES FOR THE ENJOYMENT OF HUMAN RIGHTS OF POLITICAL, MILITARY, ECONOMIC AND OTHER FORMS OF ASSISTANCE GIVEN TO THE RACIST REGIME IN SOUTHERN AFRICA (agenda item 6) (continued) (E/CN.4/Sub.2/1991/13 and Add.1)

IMPLEMENTATION OF THE PROGRAMME OF ACTION FOR THE SECOND DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION (agenda item 14) (continued) (E/CN.4/1992/39; E/CN.4/1992/42 and Add.1; E/1991/39; A/C.3/46/2)

12. Mr. AMOO-GOTTFRIED (Ghana) commended the Commission for having drawn the attention of the international community, by its resolutions, to the many human rights violations committed in South Africa over the years. It had thus contributed in some degree to the changes that had recently occurred in that country, such as the release of political prisoners, the unbanning of political organizations, the lifting of the state of emergency and the repeal of laws regarded as the pillars of apartheid, namely, the Separate Amenities Act, the Land Acts, the Group Areas Act and the Population Registration Act. He had also noted with satisfaction that, since the Commission's last session, the notorious section 29 of the Internal Security Act had been amended. However, other apartheid laws still remained in force and pressure still needed to be brought to bear on the South African Government for their repeal.

13. As shown in the report of the Ad Hoc Working Group of Experts, unprecedented acts of violence had been committed during the period under review in a number of South African provinces and the repressive measures carried out by death squads and some elements of the security forces had reached alarming proportions. In addition, death sentences were still being handed down, even though no political prisoners had been executed for several months, and press freedom had been restricted. It was thus vitally important for the international community to continue to exert pressure on the South African Government with a view to creating the necessary conditions for the building of a democratic and multiracial society in South Africa. It was also to be hoped that the South African authorities would in future show their willingness to cooperate with the Commission in authorizing the Ad Hoc Working Group of Experts to visit South Africa so that it could see for itself what progress had been achieved in the abolition of apartheid.

14. While welcoming the changes that had already taken place in South Africa, his delegation regretted that the statement made on 24 January by President De Klerk had said nothing new and was designed chiefly to appease the extreme right-wing white minority. The decision to organize a referendum enabling the white electorate to give its views on any changes in the existing Government and Constitution agreed on in the course of negotiations constituted a violation of the democratic process and was consequently totally unacceptable. The struggle for a democratic, non-racial society in South Africa should thus continue and the support given to that struggle by the Commission and the international community was still crucial. His delegation expressed the hope that, at the forty-eighth session, that support would be demonstrated by the adoption of resolutions on South Africa, so that a clear and unequivocal message could be sent to the authorities in Pretoria.

15. Mr. PHEKO (Pan Africanist Congress of Azania) appealed to the Commission not to waver in the stand it had taken on the situation in southern Africa until apartheid had been completely eradicated. The members should not allow themselves to be deceived by any false hopes that might be aroused by the measures the South African regime had taken in recent months, such as the repeal of the 1913 Land Act, since 87 per cent of all land in the country was still owned by 13 per cent of the privileged white minority, who had seized it by force and by fraud. The Pan Africanist Congress of Azania (PAC) was again urging the United Nations to appoint a special commission to investigate acts of violence committed in South Africa, for which the South African Government was primarily responsible. For example, in 1991, 5,475 Africans had been murdered by various mercenaries in the pay of the apartheid regime and 8,343 persons had been arrested following so-called "unrest incidents". Despite the memorandum of understanding between the South African regime and the United Nations High Commissioner for Refugees (UNHCR), only 10 per cent of exiles had returned to South Africa and many of them had been murdered on their return or else had been forced to flee to countries like Botswana to escape the violence inflicted on them by the whites. The South African regime had been so successful in deceiving the international community that it had obtained a premature lifting of sanctions, as well as the involvement of certain countries in exercises that had legitimized the colonialist apartheid system and rehabilitated that system instead of protecting its victims.

16. The South African Government was also continuing its military and nuclear collaboration with Israel and was illegally importing weapons from the United States, as shown by two cases involving the purchase and sale of arms by a South African company and secret agents that had come before a Philadelphia court in November 1991. At the beginning of January 1992, fresh evidence had come to light that Mr. De Klerk was secretly funding black groups in order to derail the liberation of Azania and a number of PAC members had been arrested or attacked.

17. The so-called "Convention for Democracy in South Africa" or CODESA, which had met on 20 and 21 December 1991, was the biggest political fraud of modern times, a mere farce which had in fact enabled the South African Government to preempt any possibility of the election by universal suffrage of a constituent assembly to draw up a new constitution for South Africa. Even the so-called "interim Government" was to be led by persons whose appointment had been approved by the South African regime and who had not been chosen by the people. The regime was doing everthing it could to block the way to genuine negotiations and was resorting to corrupt methods to perpetuate apartheid. Thus, it had invited to the Convention 10 so-called Bantustan "political parties", some of which had openly stated that the regime was negotiating on their behalf. What was even more disturbing was that the international community could now be invited to attend CODESA as an observer and could accept such invitations. In fact, it was obvious that CODESA represented only a minority. An opinion poll conducted by a research centre in Johannesburg had shown that 60 per cent of oppressed Africans did not believe in the sincerity of the racist regime and that less than 40 per cent believed that the apartheid regime could transform itself into a democratic regime.

18. PAC had always been in favour of genuine negotiations. The Patriotic/ United Front, which was financed by the Organization of African Unity and had been set up in Durban in October 1991 by the African National Congress and PAC, had accepted in principle the establishment of a democratically elected constituent assembly. It had agreed that the multiparty conference to be held prior to the assembly should not be convened by the South African regime, but by an independent and neutral third party, to be agreed on by PAC and ANC. However, nothing of the kind had occurred, since the South African regime and its allies had decided at the meeting of 29 and 30 November 1991 between President De Klerk, PAC and ANC to give the assembly the misleading name of "Convention for a Democratic South Africa". It was clear that nothing had changed and that the building of a new South Africa was light years away. PAC would nevertheless continue its struggle until a democratically elected constituent assembly had been charged with creating a new constitution for a free Azania. It would not abandon that African country to the forces of oppression and racism. Apartheid and colonialism would be powerless to resist the efforts of vigilant and justice-loving peoples fighting alongside 36 million dispossessed Azanians, who had suffered for too long from colonial and racist tyranny.

19. Mr. RYDER (International Confederation of Free Trade Unions) said that ICFTU, which represented 152 national trade unions in 108 countries with a total membership of 110 million, wished to reaffirm its commitment to the struggle for the abolition of apartheid. Since the repeal of the laws which had constituted the pillars of apartheid, progress towards the creation of a democratic and non-racist society in South Africa had been slow and hesitant. In addition, the persistence of the widespread violence of which hundreds of black South Africans, trade unionists in particular, had been victims had called into question the commitment of the authorities to bring the negotiation process to a conclusion. It was clear that the changes that had occurred in South Africa were not so irreversible as to be capable of guaranteeing the dismantling of apartheid. Accordingly, ICFTU, in line with the views expressed by the Congress of South African Trade Unions (COSATU) and the National Council of Trade Unions (NACTU), still believed that the application of comprehensive economic sanctions against South Africa was the most effective means available to the international community to exert pressure on the country to carry out genuine reforms. In that connection, it regretted that certain Governments, more concerned with their own commercial interests than with the interests of the oppressed majority of South Africa, had already decided to lift or ease those sanctions.

20. By concerning itself with the violation of trade union rights, the Ad Hoc Working Group of Experts had recognized the leading role that the independent and democratic trade union movement continued to play in South Africa, despite numerous obstacles. The stayaway on 4 and 5 November 1991 had demonstrated the impressive mobilizing capacity of South Africa's independent trade unions and their determination to participate in the decision-making process required to put an end in the post-apartheid era to the gross injustices and inequalities that continued to divide South African society along racial lines. The opening on 21 January 1992 of talks aimed at establishing a national economic negotiating forum marked an important step forward in that regard.

21. Although some of the most flagrant restrictions on trade union rights had been lifted, many repressive laws were still in place and workers were still virtually unprotected. That was particularly the case with agricultural workers; employers' organizations in that sector had strongly resisted any change in the situation and the reforms proposed by the Government were clearly inadequate, since child labour continued to be authorized and the right to strike restricted. The same was true of the situation of employees in the public sector and of workers from the independent homelands and autonomous territories. Although some progress had been made with regard to the latter, the rights of workers in those territories continued to be subject to serious violations. Thus, in Boputhatswana, many trade union leaders had been sacked and others had been killed in confrontations with the police or arrested following a strike organized by the South African National Union of Mineworkers, which was not entitled to represent its members in collective bargaining, despite the fact that most miners belonged to it. Police intervention and mass dismissals continued to be the common response to industrial action in South Africa itself, demonstrating the need to establish legislation to guarantee and protect legitimate trade union activities. South African trade unions had always believed that hidden forces were behind the organized acts of violence and attacks which were increasingly being perpetrated against union militants. Their suspicions had been confirmed by the revelation in July 1991 of the existence of the so-called "Omega Project", under which the South African police had paid $600,000 to the Inkatha-linked United Workers Union of South Africa. Founded in 1986, that union's main purpose was to hamper the activities of independent trade unions in general and of COSATU members in particular. In that connection, the ICFTU drew the Commission's attention to the heavy fines and suspended prison sentences imposed in October 1991 on the Secretary-General of COSATU, and two other leaders of the union, who had been accused of kidnapping and assaulting a plainclothes police spy. Those convictions, which were in striking contrast to the failure to prosecute those guilty of acts of violence against the unions, were further evidence of the hostility faced by the unions in their continuing struggle to secure respect for their rights and for the rights of all the people of South Africa.

22. Mr. Nasseri (Iran) took the Chair.

23. Mrs. FAUCHERE (World Confederation of Labour) said that, despite the favourable developments in the situation in South Africa, her organization had not eased its pressure for the complete abolition of apartheid. In fact, the Constitution had not been amended and blacks were still far from attaining full citizenship. In the field of civil and political rights, education, housing, and social security, many laws still referred to "whites only" or "blacks only". The reform of the Constitution would put an end to de jure apartheid, but de facto apartheid would unfortunately continue for a long time.

24. At present, 50 per cent of the population (75 per cent in rural areas) lived below the poverty line and 6 million persons were unable to find work in the structured economy. The abolition of certain pillars of apartheid and political liberalization had not led to any improvement in the situation for the majority of the population. Thus, black people were still being subjected to harassment, arrest, detention and torture, sometimes resulting in death.

25. In the economic and social field, noteworthy features were a high rate of inflation, mass dismissals and neglect of the black community's health, housing and education needs. The functioning of trade unions was hampered by the activities of the police and private militias, and the fundamental rights of workers were still violated on a regular basis. Health and safety measures for workers still did not exist in a number of sectors. Racial problems, inequalities, poor working conditions, low wages and the intransigence of employers had led to strikes, which had almost invariably been repressed.

26. The World Confederation of Labour deplored Mr. De Klerk's failure to honour his commitments in respect of the release of all political and trade union prisoners, the return of all political exiles and the many ongoing court cases. It further deplored the fact that sanctions, which had been imposed in order to force the South African authorities to react swiftly and radically, had not been applied by all countries and had even been lifted by some of them.

27. The World Confederation of Labour wanted the mandate of the Ad Hoc Working Group of Experts to be extended so that it could investigate the situation in South Africa. Since the requirements of United Nations resolutions on apartheid had been only partially complied with by the South African Government, it also advocated constant monitoring by the United Nations. Moreover, it was requesting that sanctions should be maintained and that Governments should halt their aid to South Africa until apartheid had been completely eradicated.

28. Mr. GROSSE (International Federation of Human Rights) once again deplored the piecemeal way in which the Programme of Action for the Second Decade was being implemented, at a time when the alarming situation prevailing in many regions of the world called for the continued application of international policies and for effective measures to eradicate racism, racial discrimination and xenophobia.

29. During the past year, the international community had witnessed renewed outbreaks of elementary and violent forms of xenophobia and racism, together with the emergence of extreme right-wing groups in a number of European countries. IFHR had therefore drawn the Commission's attention to the problems encountered by members of the Gipsy community, who were victims of racial discrimination on the part of the population and some authorities in many European countries. Such demonstrations of racism were continuing. The situation was particularly alarming in Germany. In the first nine months of 1991, IFHR had counted 1,331 racially motivated criminal offences, including 130 cases of grievous bodily harm and 255 arson attempts. While IFHR welcomed the very firm stand taken by the Government, it nevertheless regretted that its statements had not been followed up by sufficiently effective concrete measures, both punitive and preventive. IFHR was also seriously concerned by the acts of inter-ethnic violence, with racist overtones, which had taken place in November 1991 in Burundi. In Guatemala, the indigenous population continued to be subjected to widespread discrimination. In Bhutan, the fundamental rights of the population of Nepalese origin were being seriously violated. In all those cases, racist violence was forcing the populations concerned to seek refuge in third countries, where their presence often unleashed a new racist backlash.

30. IFHR feared that the lack of urgency in implementing the Programme of Action was an indication of the international community's lack of interest in the struggle being waged by the United Nations against racial discrimination. If that was the case, IFHR could see no point in launching a third decade to combat racial discrimination. Its members were, however, firmly convinced that it was the duty of the United Nations and of the States parties to the Convention on the Elimination of All Forms of Racial Discrimination to fight with determination against racism and racial discrimination. In addition, the General Assembly regularly called on the Commission on Human Rights to remain vigilant, with a view to detecting situations of overt or covert racism and suggesting appropriate remedies. Thus, the Commission could establish a special procedure for the detection of situations of racial discrimination, racism and xenophobia.

31. Mr. KIRKYACHARIAN (Movement against Racism and for Friendship among Peoples) noted that the world was now witnessing an upsurge of racism and that acts of discrimination were becoming commonplace everywhere. Unfortunately, the results achieved by anti-racist movements were not commensurate with the efforts they expended. Proposals and programmes of action therefore had to be revised to make them better suited to the current situation.

32. In his organization's view, racism in its current form was related to the problem of migrant workers and refugees, as well as to the imbalance between North and South. The problem was thus an economic one. In addition, despite the recrudescence of anti-semitism, what was involved was no longer biological racism, but "differentialist" racism. In that connection, the collapse of apartheid might offer grounds for hopes of an improvement in the situation in Europe. Racism in its current form also had its roots in a fear of invasion, which had always haunted the racist imagination in the West. MARP was therefore planning to launch information campaigns about the use of certain key words, such as smell, invasion, birthright, in political speeches, instead of merely expressing indignation at verbal excesses. An analysis should also be made of the content of frequently used concepts, such as "integration", "community" and "identity".

33. The solution of all the economic and social problems that led to racist phenomena would require a great deal of political will. Accordingly, all responsible political entities and all spiritual authorities should join forces in an effort to reach effective decisions, so that the Third Decade to Combat Racism and Racial Discrimination would bring about the genuine defeat of racism throughout the world.

34. The CHAIRMAN gave the floor to the delegation of Spain for the exercise of the right of reply.

35. Mr. PALACIOS (Spain), speaking in exercise of the right of reply, said he regretted that, at the preceding meeting, the representative of the International Indian Treaty Council had allowed himself an interpretation of history that was far removed from reality. The Spanish people, the product of a combination of many different races, was in no way ashamed of its past, with all its failures and mistakes. It could thus be proud of its contribution to civilization in general. There would be absolutely no point in attempting to judge by twentieth century standards the action of a small group of men which

should be seen in a particular historical context. There would also be no point in hypocritically pretending to assume responsibility for events which had taken place 500 years previously in countries now entirely independent of modern Spain.

36. He hoped that such rash statements simply reflected the frustration of those who were seeking a historical justification for their inability to cope with the current situation. Spain, which at the time had given those societies the best it had had to offer, did not hesitate today to condemn the abuses which had undoubtedly been committed. His delegation took the opportunity to reaffirm its readiness to cooperate and to maintain an open dialogue in the interests of all oppressed minorities.

The meeting rose at 4.40 p.m.